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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/015,062	12/11/2001	David E. Johnson	SL-04	7252
24985	7590	02/26/2004	EXAMINER	
KENNETH S WATKINS JR 372 RIVER DR DAHLONEGA, GA 30533			PATTERSON, MARC A	
		ART UNIT		PAPER NUMBER
		1772		

DATE MAILED: 02/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/015,062	JOHNSON ET AL. <i>OB</i>	
	<b>Examiner</b>	<b>Art Unit</b>	
	Marc A Patterson	1772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 11/21/03.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1,3-6,9,27 and 28 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1,3-6,9,27 and 28 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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## **DETAILED ACTION**

### **WITHDRAWN REJECTIONS**

1. The 35 U.S.C. 112 second paragraph rejection of Claim 9, of record on page 2 of the previous Action, is withdrawn.

The 35 U.S.C. 102(b) rejection of Claims 1, 3 – 6 and 9 as being anticipated by Wells et al (U.K. Patent No. 2241195).

### **NEW REJECTIONS**

#### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 9 is dependent on Claim 8, which has been cancelled.

#### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 27 is rejected under 35 U.S.C. 102(b) as being anticipated by Wells et al (U.K. Patent No. 2241195).

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With regard to Claim 27, Wells discloses a heat – shrinkable cover (page 1, paragraph 3) for heat shrinking over a asymmetrically contoured article (irregular shaped, therefore having a contoured shape portion when the sleeve is in a lay – flat condition; page 1, paragraph 2; page 1, paragraph 2), made of a preferentially oriented film (single shrink orientation; page 1, paragraph 4); the cover is a sleeve (tubular, but having the shape of the article rather than parallel sides; Basic-Abstract; Figure 3) and has a top which is smaller than, and offset from, the bottom (page 2, paragraph 3; Figure 4); it therefore has an open bottom defining a vertical bottom axis and an open top defining a vertical top axis, the top axis offset transversely from the bottom axis. With regard to the claimed aspect of the sleeve being ‘made by welding,’ the scope of the claims falls within the limitations of Wells as discussed above. The method of making the sleeve (product – by – process) is given little patentable weight.

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1, 3 – 6 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wells et al (U.K. Patent No. 2241195) in view of Gandolfo (U.S. Patent No. 4,636,271).

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With regard to Claims 1 and 27 – 28 , Wells discloses a heat – shrinkable cover as discussed above. Wells fails to disclose a sleeve which has printed graphics on a contoured shape portion.

Gandolfo teaches the printing of graphics on a heat – shrinkable cover for heat – shrinking over a contoured article (tubular; column 4, lines 17 – 24) for the purpose of identification of the article (column 4, lines 64 – 68). The desirability of providing for a printing of graphics in Wells, which is a heat – shrinkable cover for heat – shrinking over a contoured article, would therefore be obvious to one of ordinary skill in the art.

It therefore would have been obvious for one of ordinary skill in the art at the time Applicant's invention was made to have provided for printing of graphics in Wells et al (U.K. Patent No. 2241195) in order to identify an article which has been covered by the heat – shrinkable cover as taught by Gandolfo.

With regard to Claims 3 – 5 the contoured shape disclosed by Wells comprises concave and convex – shaped portions (Figures 3 – 4).

With regard to Claim 6, the sleeve disclosed by Wells has an angled shape (Figure 4) and therefore comprises a first side in a lay – flat condition which has a vertical portion and an angled portion disposed between the vertical portion and open top, the angled portion forming and obtuse angle with the vertical portion.

#### ANSWERS TO APPLICANT'S ARGUMENTS

8.     Applicant's arguments regarding the 35 U.S.C. 112 second paragraph rejection of Claim 9, and 35 U.S.C. 102(b) rejection of Claims 1, 3 – 6 and 9 as being anticipated by Wells et al

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(U.K. Patent No. 2241195), of record in the previous Action, have been considered and have been found to be persuasive. The rejections are therefore withdrawn. The new 35 U.S.C. second paragraph rejection of Claim 9, 35 U.S.C. 102(b) rejection of Claim 27 as being anticipated by Wells et al (U.K. Patent No. 2241195), 35 U.S.C. 103(a) rejection of Claims 1, 3 – 6 and 28 as being unpatentable over Wells et al (U.K. Patent No. 2241195) in view of Gandolfo (U.S. Patent No. 4,636,271) and 35 U.S.C. 103(a) rejection of Claim 9 as being unpatentable over Wells et al (U.K. Patent No. 2241195) in view of Gandolfo (U.S. Patent No. 4,636,271) and further in view of Cook et al (U.S. Patent No. 3,086,242) above are directed to amended Claims 1, 3 – 6 and 9 and newly submitted Claims 27 – 28.

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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***Conclusion***

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc Patterson, whose telephone number is (703) 305-3537. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM. If attempts to reach the examiner by phone are unsuccessful, the examiner's supervisor, Harold Pyon, can be reached at (703) 308-4251. FAX communications should be sent to (703) 872-9310. FAXs received after 4 P.M. will not be processed until the following business day.

Marc A. Patterson, PhD.

*Marc Patterson*  
Art Unit 1772

*Harold Pyon*  
HAROLD PYON  
SUPERVISORY PATENT EXAMINER  
*1992* 2/20/04